

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**LATOYA BROWN; et al.**

**PLAINTIFFS**

v.

**CIVIL ACTION NO. 3:17-cv-347 WHB LRA**

**MADISON COUNTY, MISSISSIPPI; et al.**

**DEFENDANTS**

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**MOTION TO EXCLUDE PLAINTIFFS' UNTIMELY DESIGNATION  
OF NEW EXPERT WITNESS PATRICIA FRONTIERA, PH.D.  
[DKT. #302-3; DKT. #304-3; DKT. #307-2]**

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Defendants, Madison County, Mississippi, and Sheriff Randall C. Tucker, collectively “Defendants,” by and through counsel, file the following Motion to Exclude Plaintiffs’ Untimely Designation of New Expert Witness Patricia Frontiera, Ph.D. in this matter pursuant to Fed. R. Civ. P. 26 and Fed. R. Civ. P. 37.

1. In support of this motion, Defendants adopt the reasons set forth in their separately filed Memorandum in Support of Their Motion to Exclude Plaintiffs’ Untimely Designation of New Expert Witness Patricia Frontiera, Ph.D. [Dkt. #302-3; Dkt. #304-3; Dkt. #307-2].
2. Defendants rely upon the following exhibits in support of the instant motion and brief:

**Exhibit “A”: Dr. Ricchetti Deposition Excerpts**

Pursuant to Fed. R. Civ. P. 26 and Fed. R. Civ. P. 37, and for all the reasons set forth in the Memorandum in Support of this Motion filed concurrently, Defendants move the Court to exclude Plaintiffs’ untimely designation of new expert witness Patricia Frontiera, Ph.D.

This the 30th day of July, 2018.

**MADISON COUNTY, MISSISSIPPI and  
SHERIFF RANDALL C. TUCKER, IN  
HIS OFFICIAL CAPACITY**

BY: /s/ Charles E. Cowan

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**CERTIFICATE OF SERVICE**

I, Charles E. Cowan, hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following:

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So, certified this the 30th day of July, 2018.

/s/ Charles E. Cowan  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

LATOYA BROWN; LAWRENCE )  
BLACKMON; HERBERT ANTHONY )  
GREEN; KHADAFY MANNING; )  
QUINETTA MANNING; MARVIN )  
MCFIELD, NICHOLAS SINGLETON; )  
STEVEN SMITH; BESSIE THOMAS; )  
and BETTY JEAN WILLIAMS )  
TUCKER, individually and on )  
behalf of a class of all )  
other similarly situated, )  
 )  
Plaintiffs, )  
 ) Civil Action No.  
-vs- ) 3:17-cv-347 WHB LRA  
 )  
MADISON COUNTY, MISSISSIPPI; )  
SHERIFF RANDALL S. TUCKER, )  
in his official capacity; )  
and MADISON COUNTY SHERIFF'S )  
DEPUTIES JOHN DOES #1 )  
through #6, in their )  
individual capacities, )  
 )  
Defendants. )

The deposition of BRYAN RICCHETTI, Ph.D.,  
taken before JUNE M. FUNKHOUSER, CSR, RMR, and  
Notary Public, pursuant to the Federal Rules of  
Civil Procedure for the United States District  
Courts pertaining to the taking of depositions, at  
181 West Madison Street, 43rd Floor, Chicago,  
Illinois, commencing at 9:11 a.m. on April 6, 2018.

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1           A     So you get the raw data and then you  
2 write a program to input it into a statistical  
3 package, and then the statistical package would say  
4 calculate the mean of this variable over these  
5 samples, right? So you sort of have this interface  
6 where you're giving the data instructions and  
7 you're implementing those calculations.

8           Q     Is that like SAS?

9           A     SAS is an example. R. ArcGIS is  
10 something we've used. So there's various programs.

11          Q     Which one did you-all use here; do you  
12 know?

13          A     I believe we used R for a lot of the  
14 work, but I'd have to double-check.

15          Q     Did you ever look at any of the raw data?

16          A     Sure. Yeah.

17          Q     Which sets?

18          A     All the data that I ended up relying on I  
19 looked at the underlying, the raw files.

20          Q     But that was after it had been processed,  
21 right?

22          A     No, I think I had access to the -- like I  
23 remember opening the CAD and seeing, you know, the  
24 columns in the CAD, and I think it's got this  
25 variable that I don't know what the label is but it

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1 tells you, you know, the type of interaction, one  
2 of the values is roadblock and you can filter the  
3 data, so I played with all the data and understood  
4 what it did and things like that.

5 Q Did you do the geocoding?

6 A No, I personally didn't do the geocoding.

7 Q Do you know who in the Madison County  
8 Sheriff's Department makes a decision regarding DUI  
9 unit roadblocks, selecting the location?

10 A No, I do not know.

11 Q Do you know the individual that oversees  
12 that unit?

13 A I do not.

14 Q Just for the record, you didn't talk to  
15 that -- either one of those individuals?

16 A I did not.

17 Q Did you hear or find out any information  
18 or research the background or the factors that they  
19 considered?

20 A You know, to the extent the stuff I  
21 relied on, you know, kind of a general  
22 understanding that roadblocks are a mechanism for  
23 regulating DUIs and unsafe traffic behavior and  
24 then, again, statistically I see that very strong  
25 relationship.

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1 Sometimes there's addresses.

2 Q Most of them were hard street numbered  
3 addresses that you could mail something to?

4 A Well, the way we -- the way it works is  
5 we have this software called ArcGIS which is --

6 Q I'm very familiar with it.

7 A Yeah. And so that you can merge those on  
8 and get an estimated address.

9 Q The problem with ArcGIS, help me out if  
10 I'm right here, it needs specific information to  
11 give you a geocode?

12 A So it has a match score, it will tell you  
13 how -- you know, whether it can match a specific  
14 location.

15 Q So if ArcGIS was to plant or geocode a  
16 roadblock location based on an intersection  
17 description, just say Interstate 220 and County  
18 Line Road, it would put that geocode square in the  
19 middle of the intersection because that's the  
20 center line of the two roads, correct?

21 MR. YOUNGWOOD: Objection; form.

22 THE WITNESS: It's possible that in some  
23 of those situations you would be in a road.

24 BY MR. NOBILE:

25 Q Who did the geocoding for your analysis?

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1           A     So, you know, my team working under my  
2 supervision used this software, ArcGIS, which  
3 ultimately gave us these locations.

4 Q How did you verify the accuracy of these  
5 locations?

6           A     Well, ArcGIS has this match score, and so  
7       to the extent it gets a hundred that means it's a  
8       perfect match according to ArcGIS and then once it  
9       falls below 90 we don't include those records in my  
10      analysis.

11           Q     But the perfect match on a street  
12 intersection between two intersections or two  
13 streets would be in the middle of the intersection?

14 A It would be assigned to a census tract  
15 some way.

16 Q How do you make that assignment? Who  
17 verified that assignment? Because if you're doing  
18 a roadblock in the middle of County Line Road one  
19 half is in one census tract, the other one is in  
20 the other census tract. How did you account for  
21 any of that?

22 MR. YOUNGWOOD: Objection; form.

23 THE WITNESS: So for the -- where we have  
24 an exact address it accounts for it and to the  
25 extent the address is imprecise we're removing the

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1 analysis to the extent it needed to be switched.

2 Q And you plotted, just to be clear,

3 2,004 -- you believe that you -- well, you geocoded

4 2,004 roadblocks?

5 A Yes.

6 Q The ones in footnote 23 is what I keep

7 going back to.

8 A (Witness nods head.)

9 Q That's an affirmative nod, right?

10 A Yes. Yes. Sorry.

11 Q And so when you did your regression

12 analysis you only did a regression analysis on the

13 CAD file, which is 1,697 roadblocks?

14 A So I -- that was my main analysis in  
15 Exhibit 6, and I did those sensitivities that  
16 include the other data sources.

17 Q And so when you do the sensitivities do  
18 you recalibrate your findings or is that just  
19 confirmation of your findings?

20 A It's a test of whether my findings would  
21 change if you added these extra roadblocks in. So  
22 you kind of rerun the whole model with that new  
23 information.

24 Q And so when you tested it is that --  
25 based on the test that's when you decided to add in

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1 Q And who verified that score, is that  
2 something that --

3 A That's ArcGIS.

4 Q Okay. But, I mean, like who went through  
5 the ArcGIS program, is this someone in --

6 A I've looked at those output and my team  
7 as well.

8 Q Okay. Just to be clear, nobody on your  
9 team is a geographer, right?

10 A Not like in a Ph.D. training sense.

11 Q Yeah. I mean, so neither Ms. Chapman or  
12 Mr. Russell are geographers, right?

13 A No.

14 Q How many were dropped from the CAD data  
15 because of no addresses?

16 A I think it's like maybe 13 percent or  
17 something like that.

18 Q And that's 13 percent of how many?  
19 You've got your report there if you need it.

20 A Yeah, we do that -- when we do it it's a  
21 different -- ultimately our roadblocks are  
22 roadblocks per day, and the CAD data there's  
23 multiple records per roadblock because there might  
24 be multiple police officers checking into the  
25 roadblock. So that's on the -- on the broader CAD

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1 would be in this hypothetical.

2 Q Well, I mean, I'm talking about your  
3 current analysis.

4 A Yeah.

5 Q Would it be reliable if 10 percent of the  
6 1,697 roadblocks from the 126 observations needed  
7 to be reassigned to census tracts?

8 A I think it would be -- if it were truly  
9 the case that there were some number that needed to  
10 be reassigned the analysis would be reliable and  
11 then you would assess how it changes with this  
12 reassignment. Do you see what I'm saying?

13 Q But you're talking about methodology, and  
14 I'm not talking about running your report again.

15 I'm talking about if it came to pass that 10  
16 percent of the -- of the 1,697 roadblocks and the  
17 126 observations were found to be misassigned,  
18 would that make the current existing analysis as  
19 illustrated in Exhibit 6 reliable?

20 A I'm not trying to be evasive. It really  
21 depends on which ones those are and how they're  
22 reassigned. Then you kind of have to do the test.

23 Q Okay. And what test are you talking,  
24 sensitivity test?

25 A Yeah, you would -- you know, let's say it

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1 were the case that there were some number of  
2 roadblocks that should be in one tract that aren't,  
3 then you would reassign them and you would look at  
4 the analysis. It might be you get the same general  
5 conclusions.

6 Q Until that's done you can't say that your  
7 p-values and analysis are accurate?

8 MR. YOUNGWOOD: Objection to form.

9 THE WITNESS: You know, you have to check  
10 to see if there was an issue. If there was an  
11 issue and it was a small amount of data it could  
12 have no effect on the p-values.

13 So it really -- the assumption I guess  
14 right now would be that whatever is going on there,  
15 if it is going on, if it's uncorrelated with the  
16 race variable then it wouldn't have an effect on  
17 that variable.

18 BY MR. NOBILE:

19 Q But you can't say today if it's reliable  
20 because you can't say for certain where the  
21 roadblocks are, correct?

22 A I think whether it's reliable, again,  
23 depends on how things -- to the extent of whether  
24 there is a problem and even if there was a problem  
25 how correlated it is with the Black population

1 variable.

2 Q Okay.

3 A So I can't -- yeah.

4 Q Well, why don't I take that in parts  
5 then. Why don't I take that question in parts.

6 You can't say today that the  
7 roadblocks were geocoded reliably for your  
8 analysis?

9 MR. YOUNGWOOD: Objection to form.

10 THE WITNESS: My understanding is they  
11 were coded using ArcGIS and I just need to  
12 understand whether there's this boundary issue  
13 you're discussing. I just want to double-check  
14 that.

15 BY MR. NOBILE:

16 Q But, again, I want to make sure we're  
17 clear for the record. I'm not just talking about a  
18 boundary issue. I'm talking about a location of  
19 the roadblock issue, too, because even if you do go  
20 into it and figure out where the boundaries are of  
21 the census tract you still need to figure out where  
22 the roadblock occurred. Do you agree?

23 A I'd have to -- I'd have to consider that.

24 Q Which approach? Yeah, roadblocks, which  
25 approach that they occur on the census tract on the

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1 road. Does that make sense? I'm clarifying that I  
2 mean where they are regarding the road approach on  
3 the census tract as illustrated here on Exhibit 8.

4 A Again, I think it's just you could take  
5 the -- there's data in the record that indicates  
6 the location of the roadblocks and you would just  
7 check whether the longitude and latitude of that is  
8 in or is not in a given census tract.

9 Q Okay. If you recall I gave you earlier  
10 the Fridell study on vehicle stops, right? And I  
11 think it's marked as exhibit -- what exhibit is it?

12 A 5.

13 Q 5, the By the Numbers analysis. You have  
14 it there in front of you, and I'm going to read a  
15 section from it.

16 A Can you just give me the page?

17 Q Yeah. From the foreword, page viii. 8.

18 A The pages -- oh, from the foreword.

19 Q The very beginning, yeah.

20 A I got you. viii. 8. Sorry.

21 Q That's all right.

22 A viii?

23 Q Yeah. I'm taking the full paragraph,  
24 last full paragraph on we'll just call it page 8 of  
25 the foreword, and beginning of the sentence it